

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

H.S. DOE, by Next Friend, L.S. DOE;
C.R. DOE, by Next Friend, N.R. DOE; and
Z.B. DOE by Next Friend L.B. Doe,

Plaintiffs,

v.

SHIRLEY THOEN, an Individual, and
PORT HURON AREA SCHOOL DISTRICT,

Defendants.

Case No. 5:16-cv-13710
Hon. Judith E. Levy
Magistrate Elizabeth Stafford

SEIKALY STEWART & BENNETT P.C.

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EX PARTE MOTION FOR LEAVE TO FILE EXHIBITS UNDER SEAL

NOW COMES Defendant Port Huron Area School District (“PHASD”), by and through its attorneys, Plunkett Cooney, and for its *Ex Parte* Motion to File Exhibits Under Seal, states as follows:

1. This Motion is brought pursuant to L.R. 5.3(b), which permits a party to file a motion seeking leave to file an item under seal.

2. This case involves Minor Plaintiffs and their Next Friends, all of whom are captioned confidentially pursuant to this Court’s April 3, 2017 Order Granting Plaintiffs’ Motions to File Affidavits and to File Under Seal and for Protective Order (ECF # 25).

3. Several of the exhibits to be attached to PHASD’s Motion for Summary Judgment, filed concomitantly with this Motion, contain confidential identifying information, as well as confidential medical information, relating to all three Minor Plaintiffs in this matter, H.S. Doe, C.R. Doe, and Z.B. Doe. See Exhibits R, W, Z, AA, CC, DD, EE, GG, HH, II, JJ, KK, MM, and NN.

4. Fed. R. Civ. P. 5.2 requires the filing to protect the identity of a minor.

5. The unredacted names of the Minor Plaintiffs appear extensively throughout the relevant exhibits attached to PHASD’s Motion to Dismiss and/or for Summary Judgment, such that redaction would be difficult and impractical. Additionally, the classroom video excerpts filed as Exhibit O contain footage of the Minor Plaintiffs themselves and other minor students who are not parties to this litigation and did not consent to being filmed.

6. In order to ensure that PHASD complies with Fed. R. Civ. P. 5.2, PHASD requests that this Honorable Court permit it to file, under seal, relevant exhibits to their Motion to Dismiss and/or for Summary Judgment.

7. Additionally, PHASD seeks leave to file Exhibits A, B, D, T, and V under seal because they were produced pursuant to a protective order intended to protect their confidential nature, and designated as “Confidential.” See ECF # 43, Stipulated Protective Order, ¶ 12 (stating that no document designated as “Confidential” shall be filed with the Court, except under seal).

8. Exhibits N and P relate to the sealed portion of Defendant Thoen’s deposition regarding her mental health treatment, and must likewise be kept confidential.

9. Pursuant to L.R. 5.3(b)(2)(B), a proposed Order is attached as **Exhibit A**.

WHEREFORE, Defendant PHASD respectfully requests that this Honorable Court enter an order permitting it to file certain Exhibits to its Motion to Dismiss and/or for Summary Judgment under seal.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Michael D. Weaver
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Dated: August 3, 2018

CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2018, I electronically filed an Ex Parte Motion for Leave to File Exhibits Under Seal with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

By: /s/ Michael D. Weaver
Michael D. Weaver P43985
PLUNKETT COONEY
Attorney for Defendant PHASD

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Exhibit A

**IN THE UNITED STATES DISTRICT COURT
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PROPOSED ORDER GRANTING LEAVE TO FILE EXHIBITS UNDER SEAL

Pursuant to the *Ex Parte* Motion for Leave to File Exhibits Under Seal filed by Defendant Port Huron Area School District, and for good cause shown,

IT IS HEREBY ORDERED that Defendant's Motion is GRANTED and the relevant Exhibits to Defendant Port Huron Area School District's Motion to Dismiss and/or for Summary Judgment shall be filed under seal.

Dated: _____

/s/ _____
Hon. Judith E. Levy
Magistrate Elizabeth Stafford
U.S. District Court